

WORLD TRADE ORGANIZATION

RESTRICTED

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ACCESSION TO THE WORLD TRADE ORGANIZATION

Procedures for Negotiations under Article XII

Note by the Secretariat

General

1. In accordance with Article XII of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement), a State or a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the matters provided for in the WTO Agreement and the Multilateral Trade Agreements (MTAs) annexed thereto may accede to the WTO on terms to be agreed between such State or separate customs territory and the Members of the WTO. Such accession shall apply to the WTO Agreement and the MTAs. Accession to a Plurilateral Trade Agreement annexed to the WTO Agreement shall be governed by the provisions of that Plurilateral Trade Agreement.

2. This note sets out procedures to be followed in the organization and pursuit of accession negotiations. It has been prepared by the Secretariat as a practical guide for delegations of both WTO Members and acceding States or separate customs territories and is not a general policy statement on accession negotiations. In accordance with Article XVI of the WTO Agreement, it follows decisions, procedures and customary practices of the GATT 1947 to the extent that these are relevant.

3. The procedures for accession to the WTO under Article XII require the examination of the foreign trade régime of the acceding State or separate customs territory; the negotiation and establishment of a schedule of concessions and commitments to GATT 1994 and a schedule of specific commitments to the General Agreement on Trade in Services (GATS) for such State or separate customs territory; agreement on the Report of the working party; and agreement on a Decision and a Protocol setting out the terms of Accession.

Application, Working Party

4. The acceding State or separate customs territory (the Applicant) submits a communication to the Director-General of the WTO indicating its desire to accede to the WTO under Article XII. The communication is circulated to all Members.

5. The General Council considers the application and the establishment of a working party. The terms of reference, in general, of working parties are "to examine the application for accession to the WTO under Article XII and to submit to the General Council/Ministerial Conference recommendations

which may include a draft Protocol of Accession". Membership in the working party is open to all interested Members. The Chairperson of the working party is appointed following consultations conducted by the Chairperson of the General Council involving the Applicant and members of the working party.

6. Upon the establishment of the working party, the Secretariat informs the Applicant of the procedures followed by working parties on accessions to the WTO, and the requirement that the Applicant submit a Memorandum on its Foreign Trade Régime that covers, but is not necessarily limited to, the topics listed in the attached outline format.

7. Technical assistance is provided by the Secretariat and may be provided by individual Members. The Secretariat may be invited to examine the specific assistance requirements of the Applicant so as to elaborate its own plans for assistance and to coordinate them, to the extent possible, with similar assistance being provided by individual Members. It is understood that the Secretariat would assist any Applicant that may so request in the technical preparation of its Memorandum and of subsequent documentation. The Applicant should also avail itself, to the extent possible, of the training activities of the WTO as part of its preparation for accession negotiations and to fully use its observer status, in particular, to follow meetings of other accession working parties and various WTO Councils and Committees.

8. Adequate lead-time should be allowed in the preparatory stage of accession negotiations before meetings of the working party are convened to enable both the Applicant and members of the working party to better prepare themselves. As a rule, there should be a sufficient lapse of time (generally four to six weeks) between the formal circulation of documentation and meetings of the working party. The dates of meetings are set after the agenda has been agreed in informal consultations and the relevant documentation circulated. The convening notice of meetings should specify the purpose of each meeting and the documentation before it.

Foreign Trade Régime¹

9. The Applicant submits a Memorandum describing in detail its foreign trade régime and providing relevant statistical data for circulation to all Members. The Secretariat should check the consistency of the Memorandum with the attached outline format and inform the Applicant and members of the working party of its views. At the same time, copies of the Applicant's currently applicable tariff schedule in the harmonized system (HS) nomenclature and other laws and regulations relevant to accession are made available to members of the working party. The customary practice in this respect has been that the Applicant send a complete and comprehensive copy of the relevant laws and regulations to the Secretariat. If the textual material is short, it should be entirely translated by the Applicant into one of the WTO official languages (English, French and Spanish); if it is long, the Applicant should provide a detailed summary in one of the official languages. The summary or the translated textual material is circulated to members of the working party with the original copy being retained for consultation in the Secretariat. The Secretariat should ensure that the above documentation is available in accordance with the guidelines set out in paragraph 8.

10. Following the circulation of the Memorandum, members of the working party are invited to submit questions in writing with a view to clarifying the operation of the Applicant's foreign trade régime. As a rule, answers should also be provided in writing and consolidated and arranged by topics in

¹ WTO procedures relating to the use of the WTO official languages will apply to documentation submitted.

accordance with the structure of the Memorandum. Depending on the adequacy of the information provided, more than one round of questions and answers may be organized before the first meeting of the working party. Subsequent rounds should be designed to select and clarify issues before meetings of the working party, if necessary. Upon the request of any member of the working party, the Applicant submits information concerning the accession to the working party with regard to topics not listed in the attached outline format.

11. At the initial meeting of the working party, representatives from the Applicant and members of the working party examine the Memorandum and the questions and answers provided with a view to seeking any further clarifications that may be required in the light of the various provisions of the WTO Agreement and the MTAs. At the end of each meeting of the working party, the Chairperson generally outlines the state of play and the next steps required for the preparation of future meetings. This preparation should be carried out, inter alia, through informal consultations with members of the working party and the Secretariat, as necessary.

12. When the examination of the foreign trade régime is sufficiently advanced, members of the working party may initiate bilateral market access negotiations on goods and services and on the other terms to be agreed. It is understood that fact-finding work on the foreign trade régime and the negotiating phase can overlap and proceed in parallel.

Schedules

13. The procedures for negotiating schedules on concessions and commitments on goods and specific commitments on services may be summarized as follows:

(i) in the case of goods, either interested Members submit requests and the Applicant then tables initial offers, or, as a means of expediting the work, the Applicant tables its draft Schedule of Concessions and Commitments to provide the basis for negotiations. In either case, negotiations then proceed bilaterally on the basis thus provided. Members expect that, in general, the Applicant will ensure that its proposed bindings are at commercially viable levels and reflect the general benefits the Applicant will enjoy upon membership;

(ii) in the case of services, either interested Members submit requests and the Applicant then tables its draft Schedule of Specific Commitments, or the tabling of a draft Schedule by the Applicant is followed by requests from interested Members. In either case, negotiations proceed bilaterally on the basis thus provided;

(iii) following the conclusion of bilateral negotiations between interested Members and the Applicant, the Schedule of Concessions and Commitments to GATT 1994 and the Schedule of Specific Commitments to the GATS are prepared, reviewed multilaterally and annexed to the draft Protocol of Accession as an integral part of it.

Report, Protocol of Accession and Entry into Force

14. A summary of the discussions in the working party is reflected in the Report of the working party to the General Council/Ministerial Conference together with a draft Decision and Protocol of Accession. Frequently, some accession commitments are included in the Report of the working party and incorporated by reference in the text of the Protocol of Accession. The Protocol of Accession contains the terms of accession agreed by the Applicant and members of the working party and its provisions, therefore, reflect the particular case of the Applicant.

15. Once the negotiations on the schedules on goods and services are concluded and the working party has completed its mandate, the working party submits its Report, together with the draft Decision and Protocol of Accession, to the General Council/Ministerial Conference. Following the General Council/Ministerial Conference's adoption of the Report of the working party and the approval of the draft Decision by a two-thirds majority of the WTO Members' positive vote, the Protocol of Accession enters into force thirty days after acceptance by the Applicant, either by signature or by deposit of the Instrument of Ratification, if Parliamentary approval is required.

ATTACHMENT

Outline Format for a Memorandum on the Foreign Trade Régime²

I. INTRODUCTION

Statement on the general objectives of the Applicant's trade policy régime and their relation with the objectives of the WTO.

II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

1. Economy:

- (a) general description (territory, population, economic specialization, main economic indicators);
- (b) current economic situation.

2. Economic Policies:

- (a) main directions of the ongoing economic policies, tactical and strategical goals of the economic policies, pricing policy, economic development plans, privatization plans, sectoral priorities, regional development plans, etc;
- (b) monetary and fiscal policies;
- (c) foreign exchange and payments system, relations with International Monetary Fund, application of foreign exchange controls if any;
- (d) foreign and domestic investment policies;
- (e) competition policies.

3. Foreign trade in goods and services: volume and value of trade, exports and imports, foreign trade balance, structure of trade, trade by geographic areas and dynamics of trade, accompanying statistical data and information on publications (Annex 1 refers).
4. Domestic trade in services including value and composition of foreign direct investment.
5. Information on financial movements related to nationals working abroad, remittances, etc.
6. Information on growth in trade in goods and services over recent years and forecasts for years to come.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES

1. Powers of executive, legislative and judicial branches of government.
2. Government entities responsible for making and implementing policies affecting foreign trade.
3. Division of authority between central and sub-central governments.
4. Any legislative programmes or plans to change the regulatory régime.
5. Laws and Legal Acts (Annex 2 refers).
6. Description of judicial, arbitral or administrative tribunals or procedures, if any.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation:
 - (a) registration requirements for engaging in importing;
 - (b) characteristics of national tariff (the most recent edition of which should be supplied), customs tariff nomenclature (HS), types of duties, general description of the customs tariff structure, weighted average level of duties on main customs tariff groupings; application of m.f.n. tariff rates, tariff preferences;
 - (c) tariff quotas, tariff exemptions;
 - (d) other duties and charges, specifying any charges for services rendered;
 - (e) quantitative import restrictions, including prohibitions, quotas and licensing systems;
 - (f) import licensing procedures (Annex 3 refers);
 - (g) other border measures, e.g. any other schemes that have border effects similar to those of the measures listed under (e) above;
 - (h) customs valuation (WTO Customs Valuation Agreement (Annex 4 refers), the Brussels Definition of Value, or any other system) whether used only for purposes of levying ad valorem rates of duty or for other purposes;
 - (i) other customs formalities;
 - (j) pre-shipment inspection;
 - (k) application of internal taxes on imports;
 - (l) rules of origin;
 - (m) anti-dumping régime;

- (n) countervailing duty régime;
 - (o) safeguard régime.
- 2. Export Regulation:
 - (a) registration requirements for engaging in exporting;
 - (b) customs tariff nomenclature, types of duties, duty rates, weighted averages of rates;
 - (c) quantitative export restrictions, including prohibitions, quotas and licensing systems;
 - (d) export licensing procedures;
 - (e) other measures, e.g. minimum export prices, voluntary export restrictions, orderly marketing arrangements;
 - (f) export financing, subsidy and promotion policies;
 - (g) export performance requirements;
 - (i) import duty drawback schemes.
- 3. Internal policies affecting foreign trade in goods:
 - (a) industrial policy, including subsidy policies;
 - (b) technical regulations and standards, including measures taken at the border with respect to imports (Annex 5 refers);
 - (c) sanitary and phytosanitary measures, including measures taken with respect to imports;
 - (d) trade-related investment measures;
 - (e) state-trading practices (Annex 6 refers);
 - (f) free zones;
 - (g) free economic zones;
 - (h) trade-related environmental policies;
 - (i) mixing regulations;
 - (j) government-mandated counter-trade and barter;
 - (k) trade agreements leading to country-specific quotas allocation;
 - (l) government procurement practices, including general legal régime and procedures for tendering, dealing with tenders and award of contracts;
 - (m) regulation of trade in transit.
- 4. Policies affecting foreign trade in agricultural products:
 - (a) imports - i.e. comprehensive description of the types of border protection maintained: customs duties and/or any other border measures;
 - (b) exports - i.e. description of, and the budgetary expenditure and any revenue foregone involved in each of the export subsidy measures in place;
 - (c) export prohibitions and restrictions;
 - (d) export credits, export credit guarantees or insurance programmes;
 - (e) internal policies - i.e. description of, and the budgetary expenditure and any revenue foregone involved in each of the domestic support measures in place.
- 5. Policies affecting foreign trade in other sectors:
 - (a) textiles régime;
 - (b) policies affecting foreign trade in other major sectors.

V. TRADE-RELATED INTELLECTUAL PROPERTY RÉGIME

1. General:

- (a) intellectual property policy;
- (b) responsible agencies for policy formulation and implementation;
- (c) membership of international intellectual property conventions and of regional or bilateral agreements;
- (d) application of national and m.f.n. treatment to foreign nationals;
- (e) fees and taxes.

2. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights:

- (a) copyright and related rights, including rights of performers, producers of phonograms and broadcasting organizations;
- (b) trademarks, including service marks;
- (c) geographical indications, including appellations of origin;
- (d) industrial designs;
- (e) patents;
- (f) plant variety protection;
- (g) layout designs of integrated circuits;
- (h) requirements on undisclosed information, including trade secrets and test data;
- (i) any other categories of intellectual property.

3. Measures to control abuse of intellectual property rights.

4. Enforcement:

- (a) civil judicial procedures and remedies;
- (b) provisional measures;
- (c) any administrative procedures and remedies;
- (d) any special border measures;
- (e) criminal procedures.

5. Laws, decrees, regulations and other legal acts relating to the above.

6. Statistical data on applications for and grants of intellectual property rights, as well as any statistical data on their enforcement.

VI. TRADE-RELATED SERVICES RÉGIME

1. General

General description of the overall market and regulatory structures of the most prominent services sectors (e.g., financial services, telecommunications, professional services, construction, tourism, transportation). A complete list of services sectors is found in document MTN.GNS/W/120, the "Services Sectoral Classification List" (Annex 7 refers).

2. Policies affecting Trade in Services

General reference to main laws, regulations, rules, procedures, decisions, administrative action and other legal instruments and a description of specific measures affecting trade in services. Distinctions based on modes of supply and/or sectors could be made whenever relevant:

- (a) Government departments, agencies, professional associations or other bodies with authority or a role relevant to the conduct of service activities;
- (b) Judicial, arbitral or administrative tribunals or procedures providing for the review of, or remedies in relation to, administrative decisions affecting trade in services;
- (c) Provisions, including those in international agreements, concerning qualification requirements and procedures, technical standards and licensing and/or registration requirements for the supply of services;
- (d) Provisions governing the existence and operation of monopolies or exclusive service suppliers;
- (e) Provisions relating to safeguard measures as they apply to trade in services;
- (f) Provisions relating to international transfers and payments for current transactions of services;
- (g) Provisions relating to capital transactions affecting the supply of services;
- (h) Provisions governing the procurement by governmental agencies of services;
- (i) Provisions concerning any form of aid, grant, domestic subsidy, tax incentive or promotion scheme affecting trade in services.

Market Access and National Treatment

Limitations or conditions applied to market access and national treatment. Please specify, whether applied on a horizontal (e.g., measures relating to foreign investment régime, movement of persons supplying a services, real estate ownership and conditions of establishment) or a sectoral basis:

- (a) Limitations on the number of service suppliers;
- (b) Limitations on the total value of service transactions or assets;
- (c) Limitations on the total number of service operations or on the total quantity of service output;
- (d) Limitations on the total number of natural persons that may be employed in a particular service sector;
- (e) Restrictions on, or requirements of specific types of legal entity through which a service may be supplied;

- (f) Limitations on the participation of foreign capital;
- (g) Measures providing for less than the treatment accorded to national services or service suppliers.

Most-Favoured-Nation Treatment

Indicate any existing measures inconsistent with m.f.n. treatment.

VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services (Annex 8A refers).
2. Economic integration, customs union and free-trade area agreements (Annex 8B refers).
3. Labour markets integration agreements.
4. Multilateral economic cooperation, membership in the multilateral economic organizations, trade-related programmes of other multilateral organizations.

ANNEX 1

STATISTICS AND PUBLICATIONS¹

1. Foreign trade statistics for good and services: responsible agencies.
2. Publications related to statistics.
3. Statistical Data:
 - (a) main economic indicators:
 - (i) GNP;
 - (ii) GNP per capita;
 - (iii) budget;
 - (iv) production and consumption of the basic goods;
 - (v) annual changes in prices;
 - (vi) employment in different sectors;
 - (vii) levels of employment;
 - (viii) balance of payments;
 - (ix) foreign exchange.
 - (b) foreign trade statistics:
 - (i) foreign trade (aggregates at the two-digit HS level);
 - (ii) export statistics;
 - (iii) import statistics;
 - (iv) imports from main suppliers, preferably at a tariff line level;
 - (v) trade by geographic areas (main trade partners).
 - (c) government procurement statistics:
 - (i) volume of government procurement broken down by:
 - central government, sub-central government and other entities, and within each of these headings;
 - supplies, construction and services.

ANNEX 2

LIST OF LAWS AND LEGAL ACTS

1. Laws and legal acts regulating the activity of the customs authorities; responsible agencies.
2. Laws and legal acts relating to non-tariff regulation of imports, exports and trade in transit, rules of origin: responsible agencies.
3. Laws and regulations relating to foreign investment: responsible agencies.
4. Other laws and legal acts dealing with economic issues that affect trade: responsible agencies.
5.
 - (a) Existing, laws, regulations or administrative guidelines which significantly affect trade in services.
 - (b) Publications or sources of information, concerning measures of general application, of relevance to the GATS.
 - (c) Enquiry points, if any, as foreseen in Article III of GATS.

ANNEX 3INFORMATION ON IMPORT LICENSING PROCEDURES

The following² is designed to elicit information on import licensing and similar administrative procedures³ maintained or applied by the Applicant. If different procedures or methods of licensing or similar administrative procedures are applied to different categories of products, to different countries of supply or to different modes of importation, they should be separately described in respect of each question as relevant.

I. OUTLINE OF SYSTEMS

1. Give a brief description of each licensing system as a whole and, with respect to each, reply to the following questions as relevant, placing all of the material with respect to a given system in sequence together, and using cross references as appropriate when elements which have already been described are also present in another system.

II. PURPOSES AND COVERAGE OF LICENSING

1. Identify each licensing system maintained and state what products, appropriately grouped, are covered.
2. The system applies to goods originating in and coming from which countries?
3. Is the licensing intended to restrict the quantity or value of imports, and if not, what are its purposes? Have alternative methods of accomplishing the purposes been considered and if so which? Why have they not been adopted?
4. Cite the law, regulation and/or administrative order under which the licensing is maintained. Is the licensing statutorily required? Does the legislation leave designation of products to be subjected to licensing to administrative discretion? Is it possible for the government (or the executive branch) to abolish the system without legislative approval?

III. PROCEDURES

1. For products under restriction as to the quantity or value of imports (whether applicable globally or to a limited number of countries or whether established bilaterally or unilaterally):
 - (a) Is information published, and where, concerning allocation of quotas and formalities of filing applications for licences? If not, how is it brought to the attention of possible importers? Of governments and export promotion bodies of exporting countries and their

² Originally circulated as L/3515 of 23 March 1971 and reproduced in L/5640/Rev.10.

³ Similar procedures are understood to include technical visas, surveillance systems, minimum price arrangements, and other administrative reviews effected as a prior condition for entry of imports.

trade representatives? Is the overall amount published? The amount allocated to goods from each country? The maximum amount allocated to each importer?

- (b) How is the size of the quotas determined: on a yearly, six-monthly or quarterly basis? Are there cases where the size of quota is determined on a yearly basis but licences are issued for imports on a six-monthly or quarterly basis? In the latter case, is it necessary for importers to apply for fresh licence on a six-monthly or quarterly basis?
 - (c) Are licences allotted for certain goods partly or only to domestic producers of like goods? What steps are taken to ensure that licences allocated are actually used for imports? Are unused allocations added to quotas for a succeeding period? Are the names of importers to whom licences have been allocated made known to governments and export promotion bodies of exporting countries upon request? If not, for what reason? (Indicate products to which replies relate.)
 - (d) From the time of announcing the opening of quotas, as indicated in I above, what is the period of time allowed for the submission of applications for licences?
 - (e) What are the minimum and maximum lengths of time for processing applications?
 - (f) How much time remains, at a minimum, between the granting of licences and the date of opening of the period of importation?
 - (g) Is consideration of licence applications effected by a single administrative organ? Or must the application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?
 - (h) If the demand for licences cannot be fully satisfied, on what basis is the allocation to applicants made? First come, first served? Past performance? Is there a maximum amount to be allocated per applicant and, if so, on what basis is it determined? What provision is made for new importers? Are applications examined simultaneously or on receipt?
 - (i) In the case of bilateral quotas or export restraint arrangements where export permits are issued by exporting countries, are import licences also required? If so, are licences issued automatically?
 - (j) In cases where imports are allowed on the basis of export permits only, how is the importing country informed of the effect given by the exporting countries to the understanding between the two countries?
 - (k) Are there products for which licences are issued on condition that goods should be exported and not sold in the domestic market?
2. Where there is no quantitative limit on importation of a product or on imports from a particular country:
- (a) How far in advance of importation must application for a licence be made? Can licences be obtained within a shorter time-limit or for goods arriving at the port without a licence (for example, owing to inadvertency)?

- (b) Can a licence be granted immediately on request?
 - (c) Are there any limitations as to the period of the year during which application for licence and/or importation may be made? If so, explain.
 - (d) Is consideration of licence applications effected by a single administrative organ? Or must the application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?
3. Under what circumstances may an application for a licence be refused other than failure to meet the ordinary criteria? Are the reasons for any refusal given to the applicant? Have applicants a right of appeal in the event of refusal to issue a licence and, if so, to what bodies and under what procedures?

IV. ELIGIBILITY OF IMPORTS TO APPLY FOR LICENCE

1. Are all persons, firms and institutions eligible to apply for licences:
- (a) under restrictive licensing systems?
 - (b) under non-restrictive systems?

If not, is there a system of registration of persons or firms permitted to engage in importation? What persons or firms are eligible? Is there a registration fee? Is there a published list of authorized importers?

VI. DOCUMENTATION AND OTHER REQUIREMENTS FOR APPLICATION FOR LICENCE

- 1. What information is required in applications? Submit a sample form. What documents is the importer required to supply with the application?
- 2. What documents are required upon actual importation?
- 3. Is there any licensing fee or administrative charge? If so, what is the amount of the fee or charge?
- 4. Is there any deposit or advance payment requirement associated with the issue of licences? If so, state the amount or rate, whether it is refundable, the period of retention and the purpose of the requirement.

VII. CONDITIONS OF LICENSING

- 1. What is the period of validity of a licence? Can the validity of a licence be extended? How?
- 2. Is there any penalty for the non-utilization of a licence or a portion of a licence?
- 3. Are licences transferable between importers? If so, are any limitations or conditions attached to such transfer?

4. Are any other conditions attached to the issue of a licence:
 - (a) for products subject to quantitative restriction?
 - (b) for products not subject to quantitative restriction?

VIII OTHER PROCEDURAL REQUIREMENTS

1. Are there any other administrative procedures, apart from import licensing and similar administrative procedures, required prior to importation?
2. Is foreign exchange automatically provided by the banking authorities for goods to be imported? Is a licence required as a condition to obtaining foreign exchange? Is foreign exchange always available to cover licences issued? What formalities must be fulfilled for obtaining the foreign exchange?

ANNEX 4

INFORMATION ON IMPLEMENTATION AND
ADMINISTRATION OF THE CUSTOMS VALUATION AGREEMENT⁴

1. Questions concerning Article 1:
 - (a) Sales between related persons:
 - (i) Are sales between related persons subject to special provisions?
 - (ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?
 - (iii) What is the provision for giving the communication of the afore-mentioned grounds in writing if the importer so requests? (Article 1.2(a))
 - (iv) How has Article 1.2(b) been implemented?
 - (b) Price of lost or damaged goods:

Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?
2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 been implemented?
3. How has Article 5.2 been implemented?
4. How has Article 6.2 been implemented?
5. Questions concerning Article 7:
 - (a) What provisions have been made for making value determinations pursuant to Article 7?
 - (b) What is the provision for informing the importer of the customs value determined under Article 7?
 - (c) Are the prohibitions found in Article 7.2 delineated?
6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application, are ex-factory prices also accepted?
7. Where is the rate of exchange published, as required by Article 9.1?
8. What steps have been taken to ensure confidentiality, as required by Article 10?
9. Questions concerning Article 11:
 - (a) What rights of appeal are open to the importer or any other person?
 - (b) How is he to be informed of his right to further appeal?

10. Provide information on the publication, as required by Article 12, of:
 - (a)
 - (i) the relevant national laws;
 - (ii) the regulations concerning the application of the Agreement;
 - (iii) the judicial decision and administrative rulings of general application relating to the Agreement;
 - (iv) general or specific laws being referred to in the rules of implementation or application.
 - (b) Is the publication of further rules anticipated? Which topics would they cover?
11. Questions concerning Article 13:
 - (a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?
 - (b) Have additional explanations been laid down?
12. Questions concerning Article 16:
 - (a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?
 - (b) Are there any further regulations concerning an above-mentioned request?
13. How have the Interpretative Notes of the Agreement been included?
14. How have the provisions of the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods (Val/6/Rev.1) been implemented?
15. For those countries applying paragraph 2 of the Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (Val/8), how have the provisions of this paragraph been implemented?
- For all questions listed above, an indication of the reference is requested.

ANNEX 5

INFORMATION ON
TECHNICAL BARRIERS TO TRADE

1. Description of relevant laws, regulations, administrative orders, etc, relating to implementation and administration of technical barriers to trade. All necessary references should be provided.
2. Information regarding:
 - (a) names of publications, if any, on work relating to draft technical regulations or standards and procedures;
 - (b) the name and address of the enquiry point(s) foreseen in Articles 10.1 and 10.3 of the WTO Agreement on Technical Barriers to Trade (the Agreement) with an indication as to whether it is/they are fully operational;
 - (c) the name and address of the agency dealing with consultations as foreseen in Article 14 of the Agreement;
 - (d) the name and address of agencies that are dealing with other specific functions foreseen in the Agreement;
 - (e) the scope of responsibility of the central government authorities in the area of notification requirements foreseen in Article 10.11 of the agreement and of individual government authorities, if the responsibility is divided among two or more such authorities;
 - (f) measures and arrangements to ensure that national and sub-national authorities preparing new technical regulations or substantial amendments to existing ones, provide early information on their proposals.

ANNEX 6

INFORMATION ON STATE-TRADING

Definition of State-Trading⁵

Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports.

Questionnaire on State-Trading⁶

I. ENUMERATION OF STATE-TRADING ENTERPRISES

1. Does your country maintain enterprises covered by the provisions of Article XVII? If so, list the products or groups of products for which State enterprise is maintained or for which an enterprise has exclusive or special privileges.

II. REASON AND PURPOSE FOR INTRODUCING AND MAINTAINING STATE-TRADING ENTERPRISES

1. State for each product the reason and purpose for introducing and maintaining the enterprise (it should be indicated, for example, whether the purpose or the effect of the enterprise is to prevent prices to consumers from exceeding certain maximum limits, or to protect domestic producers by the control of imports and/or the purchase of domestic supplies at above world price levels, or to facilitate export sales, or to make it possible to establish or administer a stabilization arrangement). A description of the legal provisions should be included in so far as this has not been submitted in earlier notifications.

III. DESCRIPTION OF THE FUNCTIONING OF STATE-TRADING ENTERPRISES

1. Describe, item by item, the functioning of such enterprises and state in particular:

Whether the enterprise deals with exports or with imports, or both;

Whether private traders are allowed to import or export and, if so, on what conditions; Whether there is free competition between private traders and the State-trading enterprise;

The criteria used for determining the quantities to be exported and imported;

⁵ c.f. Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994.

⁶ Originally circulated as Annex to L/1146.

How export prices are determined; How the mark-up on imported products is determined; How export prices and the re-sale prices of imports compare with domestic prices;

Whether long-term contracts are negotiated by the State-trading enterprise; Whether State-trading methods are used to fulfil contractual obligations entered into by the government.

IV. STATISTICAL INFORMATION

1. Furnish statistics (where possible by quantity and value) of imports, exports and national production on the products notified, on the following lines:
 - (a) the figures should cover the last three available years;
 - (b) the figures for the three groups (imports, exports and national production) should be given, whether possible, in a comparable form;
 - (c) the figures should be broken down so as to show:
 - (i) trade by the enterprise;
 - (ii) other trade.

V. REASONS WHY NO FOREIGN TRADE HAS TAKEN PLACE (IF THIS IS THE CASE) IN PRODUCTS AFFECTED

1. In cases where no foreign trade has taken place in the products affected, state the reasons.

VI. ADDITIONAL INFORMATION

1. Provide any additional information that may be appropriate.

ANNEX 7

SERVICES SECTORAL CLASSIFICATION LIST

I. BUSINESS SERVICES

1. Professional Services:

- (a) Legal Services;
- (b) Accounting, auditing and bookkeeping services;
- (c) Taxation Services;
- (d) Architectural services;
- (e) Engineering services;
- (f) Integrated engineering services;
- (g) Urban planning and landscape architectural services;
- (h) Medical and dental services;
- (i) Veterinary services;
- (j) Services provided by midwives, nurses, physiotherapists and para-medical personnel;
- (k) Other.

2. Computer and Related Services:

- (a) Consultancy services related to the installation of computer hardware;
- (b) Software implementation services;
- (c) Data processing services;
- (d) Data base services;
- (e) Other.

3. Research and Development Services:

- (a) R&D services on natural sciences;
- (b) R&D services on social sciences and humanities;
- (c) Interdisciplinary R&D services.

4. Real Estate Services:

- (a) Involving own or leased property;
- (b) On a fee or contract basis.

5. Rental/Leasing Services without Operators:

- (a) Relating to ships;
- (b) Relating to aircraft;
- (c) Relating to other transport equipment;
- (d) Relating to other machinery and equipment;
- (e) Other.

6. Other Business Services:

- (a) Advertising services;
- (b) Market research and public opinion polling services;
- (c) Management consulting service;
- (d) Services related to man. consulting;
- (e) Technical testing and analysis serv.;
- (f) Services incidental to agriculture, hunting and forestry;
- (g) Services incidental to fishing;
- (h) Services incidental to mining;
- (i) Services incidental to manufacturing;
- (j) Services incidental to energy distribution;
- (k) Placement and supply services of Personnel;
- (l) Investigation and security;
- (m) Related scientific and technical consulting services;
- (n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment);
- (o) Building-cleaning services;
- (p) Photographic services;
- (q) Packaging services;
- (r) Printing, publishing;
- (s) Convention services;
- (t) Other.

II. COMMUNICATION SERVICES

- 1. Postal services.
- 2. Courier services.
- 3. Telecommunication services:
 - (a) Voice telephone services;
 - (b) Packet-switched data transmission services;
 - (c) Circuit-switched data transmission services;
 - (d) Telex services;
 - (e) Telegraph services;
 - (f) Facsimile services;
 - (g) Private leased circuit services;
 - (h) Electronic mail;
 - (i) Voice mail;
 - (j) On-line information and data base retrieval;
 - (k) Electronic data interchange (EDI);
 - (l) Enhanced/value-added facsimile services, incl. store and forward, store and retrieve;
 - (m) Code and protocol conversion;
 - (n) On-line information and/or data processing (incl. transaction processing);
 - (o) Other.
- 4. Audiovisual services:
 - (a) Motion picture and video tape production and distribution services;
 - (b) Motion picture projection service;

- (c) Radio and television services;
- (d) Radio and television transmission services;
- (e) Sound recording;
- (f) Other.

- 5. Other.

III. CONSTRUCTION AND RELATED ENGINEERING SERVICES

- 1. General construction work for buildings.
- 2. General construction work for civil engineering.
- 3. Installation and assembly work.
- 4. Building completion and finishing work.
- 5. Other.

IV. DISTRIBUTION SERVICES

- 1. Commission agents' services.
- 2. Wholesale trade services.
- 3. Retailing services.
- 4. Franchising.
- 5. Other.

V. EDUCATIONAL SERVICES

- 1. Primary education services.
- 2. Secondary education services.
- 3. Higher education services.
- 4. Adult education.
- 5. Other education services.

VI. ENVIRONMENTAL SERVICES

- 1. Sewage services.

2. Refuse disposal services.
3. Sanitation and similar services.
4. Other.

VII. FINANCIAL SERVICES

1. All insurance and insurance-related services:
 - (a) Life, accident and health insurance services;
 - (b) Non-life insurance services;
 - (c) Reinsurance and retrocession;
 - (d) Services auxiliary to insurance (including broking and agency services).
2. Banking and other financial services (excl. insurance):
 - (a) Acceptance of deposits and other repayable funds from the public;
 - (b) Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of commercial transaction;
 - (c) Financial leasing;
 - (d) All payment and money transmission services;
 - (e) Guarantees and commitments;
 - (f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - money market instruments (cheques, bills, certificate of deposits, etc.);
 - foreign exchange;
 - derivative products incl., but not limited to, futures and options;
 - exchange rate and interest rate instruments, incl. products such as swaps, forward rate agreements, etc.;
 - transferable securities;
 - other negotiable instruments and financial assets, incl. bullion.
 - (g) Participation in issues of all kinds of securities, incl. under-writing and placement as agent (whether publicly or privately) and provision of service related to such issues;
 - (h) Money broking;
 - (i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services;
 - (j) Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments;
 - (k) Advisory and other auxiliary financial services on all the activities listed in Article 1B of MTN.TNC/W/50, incl. credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
 - (l) Provision and transfer of financial information, and financial data processing and related software by providers of other financial services.
3. Other.

VIII. HEALTH RELATED AND SOCIAL SERVICES

1. Hospital services.
2. Other Human Health Services.
3. Social Services.
4. Other.

IX. TOURISM AND TRAVEL RELATED SERVICES

1. Hotels and restaurants (incl. catering).
2. Travel agencies and tour operators services.
3. Tourist guides services.
4. Other.

X. RECREATIONAL, CULTURAL AND SPORTING SERVICES
(other than audiovisual services)

1. Entertainment services (incl. theatre, live bands and circus services).
2. News agency services.
3. Libraries, archives, museums and other cultural services.
4. Sporting and other recreational services.
5. Other.

XI. TRANSPORT SERVICES

1. Maritime Transport Services:
 - (a) Passenger transportation;
 - (b) Freight transportation;
 - (c) Rental of vessels with crew;
 - (d) Maintenance and repair of vessels;
 - (e) Pushing and towing services;
 - (f) Supporting services for maritime transport.
2. Internal Waterways Transport:
 - (a) Passenger transportation;
 - (b) Freight transportation;
 - (c) Rental of vessels with crew;
 - (d) Maintenance and repair of vessels;
 - (e) Pushing and towing services;
 - (f) Supporting services for internal waterway transport.
3. Air Transport Services:
 - (a) Passenger transportation;
 - (b) Freight transportation;
 - (c) Rental of aircraft with crew;
 - (d) Maintenance and repair of aircraft;
 - (e) Supporting services for air transport.
4. Space Transport.
5. Rail Transport Services:
 - (a) Passenger transportation;
 - (b) Freight transportation;
 - (c) Pushing and towing services;
 - (d) Maintenance and repair of rail transport equipment;
 - (e) Supporting services for rail transport services.
6. Road Transport Services:
 - (a) Passenger transportation;
 - (b) Freight transportation;
 - (c) Rental of commercial vehicles with operator;
 - (d) Maintenance and repair of road transport equipment;
 - (e) Supporting services for road transport services.
7. Pipeline Transport:
 - (a) Transportation of fuels;
 - (b) Transportation of other goods.
8. Services auxiliary to all modes of transport:

- (a) Cargo-handling services;
- (b) Storage and warehouse services;
- (c) Freight transport agency services;
- (d) Other.

9. Other Transport Services.

XII. OTHER SERVICES NOT INCLUDED ELSEWHERE

ANNEX 8

A. List of Foreign Trade Agreements.

B. List of Trade Agreements or parts of them which contain preferential trade provisions, indicating by HS (2 digit) the tariff lines involved, the margin of preference granted, reciprocity provisions and details of any other preferential treatment.